

RECEIPT # \_\_\_\_\_  
 AMOUNT \$ 150  
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 MCF ISSUED \_\_\_\_\_  
 BY DPTY. CLK. M  
 DATE 9-10-04

UNITED STATES DISTRICT COURT  
OF THE DISTRICT OF MASSACHUSETTS

C.A. NO.

JANET M. BUTLER,  
Plaintiff,

V.

MARK S. BEATON, Individually )  
 and in his capacity as a Member )  
 of the BOARD OF SELECTMEN )  
 OF THE TOWN OF KINGSTON, )  
 PAUL GALLAGHER, OLAVO B. )  
 DEMACEDO, JOSEPH D. )  
 KELLEHER, RICHARD E. )  
 KENNEY in their capacities as )  
 Members of the BOARD OF )  
 SELECTMEN OF THE TOWN OF )  
 KINGSTON AND TOWN OF )  
 KINGSTON, )  
 Defendants. )

04 11971 GAO

MAGISTRATE JUDGE Dein

DEFENDANTS' NOTICE TO REMOVE ACTION FROM STATE COURT

Pursuant to 28 U.S.C. §1441(b) and §1446, defendants, Mark S. Beaton, Paul M. Gallagher, Olavo B. DeMacedo, Joseph D. Kelleher, Richard E. Kenney and the Town of Kingston petition for removal to the United States District Court for the District of Massachusetts. As grounds therefore, the defendants state as follows:

1. On or about September 1, 2004 the plaintiff filed this suit in the Plymouth Superior Court, Civil Action No. PLCV2004-01072. See Complaint and Jury Demand, Tracking Order, Civil Action Cover Sheet and Motion For Preliminary Injunction, attached hereto as Exhibit 1.
2. In her complaint, the plaintiff alleges that the defendants committed "violated principles of free speech under the First Amendment to the United States Constitution . . .", and that the defendants, "acting under color of state law,

deprived the plaintiff . . . of her due process rights and privileges as secured by the 5<sup>th</sup> and/or 14<sup>th</sup> Amendments to the United States Constitution . . ." See Exhibit 1 (Complaint And Jury Demand) at ¶¶ 62, 68, 70

3. Because this matter is an action arising under federal law, this court has original jurisdiction as authorized by 28 U.S.C §1441, and it is subject to removal under 28 U.S.C §1446(b).
4. This Notice of Removal is being filed within the time period required by law. 28 U.S.C. §1446(b).

Respectfully submitted,  
Defendants,  
By their attorneys,



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Leonard H. Kesten, BBO# 542042  
Thomas P. Campbell, BBO# 564124  
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One Exeter Plaza  
Boston, MA 02116  
(617) 880-7100

Dated: September 10, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document  
was served upon the attorney of record for each other  
party by mail-hand on 9/10/04

